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Counsel for Plaintiff Dominique Morrison on
behalf of herself and all others similarly situated

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DOMINIQUE MORRISON, on behalf of
herself and all others similarly situated,

Plaintiff,

v.

ROSS STORES, INC.,

Defendant

Case No: 4:18-cv-02671-YGR

**DECLARATION OF MICHAEL A.
MCSHANE IN SUPPORT OF MOTION
FOR ATTORNEYS' FEES AND
EXPENSES**

Date: **January 25, 2022**

Time: **2:00 PM**

Place: Courtroom 1, 4th Floor

Judge: Hon. Yvonne Gonzalez Rogers

Complaint Filed: May 7, 2018

1 I, Michael McShane, hereby declare as follows:

2 1. I am an attorney and partner for the law firm of AUDET & PARTNERS, LLP, and a
3 member in good standing with the State Bar of California. I have personal knowledge of the matters
4 stated below, and if called as a witness, I could and would testify competently thereto under oath.

5 2. I respectfully submit this Declaration in support of Plaintiffs' Motion for Attorneys'
6 Fees and Expenses (hereafter, "Motion").

7 **CLASS COUNSEL'S EXPERIENCE AND QUALIFICATIONS**

8 3. Attached hereto as **Exhibit 1** is a true and correct copy of my firm's resume. The Firm
9 Resume summarizes AUDET & PARTNERS, LLP's experience in complex class action litigation and
10 other types of high-profile cases, including defective products, consumer fraud and deceptive practice
11 litigation, and related consumer/commercial business claims.

12 4. Since 1988 my practice has involved litigating exclusively class actions on behalf of
13 Plaintiffs. Since the passage of CAFA my practice has focused on Federal Court and I have appeared
14 in numerous District Courts throughout the United States. I have been appointed as Lead Counsel,
15 Executive Committee member or as Class Counsel during this time and have prosecuted all aspects of
16 Class Action litigation, and in particular numerous consumer protection claims. *See Exhibit 1.*

17 5. As outlined in the Firm Resume, the attorneys at AUDET & PARTNERS, LLP have
18 significant experience in litigating and resolving similar class actions. Recognizing the experience of
19 the attorneys at AUDET & PARTNERS, LLP, many of the attorneys at the firm and the firm itself has
20 been appointed to leadership positions in federal and state class action cases, and as sole class counsel
21 representing the class in others.

22 6. Attached as **Exhibit 2** is a true and correct copy of the lodestar and costs for my firm,
23 Audet & Partners.

24 7. The laws firms that represent Plaintiff and the Settlement Class in this matter will be
25 collectively referred to as "Class Counsel" herein.

26 8. The sum of Class Counsel's combined lodestar is: \$1,867,761.25.

27 9. The blended hourly rate for counsel in this matter is: \$632.30.

1 10. The sum of the firms' combined costs is: \$37,017.91.

2 11. The rates for the attorneys acting as Class Counsel in this matter are commensurate
3 with the prevailing market rates for attorneys and support staff of comparable experience, skill, and
4 reputation. My firm has been charged with obtaining the lodestar and expense submissions from my
5 co-Class Counsel, and summary chart of those submissions is attached hereto as **Exhibit 3**.

6 **CLASS COUNSEL'S WORK AND CONTRIBUTION**
7 **TO THE LITIGATION AND THE PROSECUTION OF THE CASE**

8 12. Starting in late-2017 Class Counsel began their research and conducted an investigation
9 into claims arising out allegedly misrepresented thread counts for AQ Textiles sheet products sold at
10 Ross Stores. The investigation and research into These efforts ultimately led to the filing of the
11 original class action complaint on May 7, 2018. During the almost three and one-half years since the
12 filing of the original complaint, Class Counsel have diligently prosecuted this litigation, including
13 extensive law and motion practice, discovery and protracted and contentious settlement negotiations.

14 13. Specifically, Class Counsel's prosecution of this litigation necessitated extensive legal
15 research, developing and identifying legal and factual issues arising from plaintiff's claims; continuing
16 investigation into the claims and facts of the case as well as the facts of the sheet industry at large,
17 preparing and responding to discovery; analyzing thousands of pages of defendant's internal
18 documents and records; over 6,000 pages of discovery from third-parties; working with experts and
19 consultants regarding the industry generally and the specific sheets involved in this case; engaging in
20 months of arm's-length settlement negotiations (including three in-person mediation sessions with
21 Hon. Jay C. Gandhi on November 13, 2019 and Hon. Elizabeth D. Laporte (ret.) on February 18, 2021
22 and March 3, 2021); preparing and responding to various dispositive and pre-trial related motions;
23 preparing class certification briefing in the event a settlement was not achieved; responding to
24 multiple motions to dismiss; amending the complaint twice; successfully opposing Defendants effort
25 to file a summary judgement motion; and working with defendants' counsel on discovery and other
26 matters.

1 14. Class Counsel prepared for and took the depositions of four Ross employees, including
2 their 30(b)(6) designee, as well as prepared for and defended the deposition of Plaintiff Morrison.

3 15. Class Counsel participated in mediation and settlement efforts that lead to the
4 agreement presented to this Court. Class Counsel personally attended (or, if appropriate, via
5 conference call or video conferencing) the various mediation sessions with Judge Gandhi (ret) and
6 Judge Laporte (ret), follow-up meetings, and the preparation and strategic planning associated with
7 the settlement negotiations. Class counsel drafted the mediation brief regarding a number of issues
8 and participated in strategy sessions.

9 16. The parties engaged in settlement efforts but due to the complex nature of the case and
10 any settlement, the parties had to convene a number of settlement sessions, some in person and some
11 on conference calls. The settlement was under the supervision and completed with the assistance of
12 Honorable Elizabeth D. Laporte (ret.). A settlement agreement was finally reached in March 2021 and
13 preliminary approval was briefed, argued, and eventually granted by the Court on August 27, 2021.

14 17. The parties agreed to this settlement after considering, among other things (i) the
15 substantial benefits to Plaintiff and the Class under the terms of the Settlement; (ii) the uncertainty of
16 being able to prevail at trial; (iii) the uncertainty relating to Defendant's defenses and the expense of
17 additional motion practice in connection therewith; (iv) the attendant risks, difficulties and delays
18 inherent in litigation, especially in complex actions such as this; and (v) the desirability of
19 consummating this Settlement promptly in order to provide substantive relief to Plaintiff and the Class
20 without unnecessary delay and expense.

21 18. As noted in the Plaintiffs' preliminary approval briefing, in Class Counsel's estimation
22 the settlement exceeds the criteria for final approval as set forth in Rule 23 and applicable case law of
23 this Circuit. Considering all relevant factors, the settlement is an excellent one that should be approved
24 by the Court. As outlined in the submissions to this Court, the settlement provides real value to the
25 class and in light of the risks of class and other issues, warrants approval by this Court. Absent approval
26 of the settlement, the class risks receiving nothing due to class and merits issues. Even if the class is
27 eventually certified, the defendant will likely appeal, as is true of any verdict in favor of plaintiffs.
28

1 19. The entirety of this work was performed on a pure contingent basis with no guarantee
2 of success or payment. Neither my firm, nor any making up class counsel, have received compensation
3 for our efforts during the course of this litigation. Throughout the litigation, Class counsel coordinated
4 with each other to divide up work in an efficient and cost-effective manner, thereby ensuring that all
5 work was performed without unnecessary duplication. All attorneys, paralegals, law clerks and support
6 staff at my firm are instructed to maintain and record in good faith time spent on this case (and others
7 firm cases) and to keep as best as practical and possible the time records of the firm reflecting the time
8 spent on this and other matters.

9 20. The costs here are eminently reasonable for the services provided by class counsel and
10 the results obtained, as they directly drove the results.

11 21. The hourly rate for myself and my firm has been previously approved by courts in this
12 and other jurisdictions, and the rate of counsel in general are appropriate for their respective home
13 jurisdictions.

14 22. The Class Representative performed her role admirably, participating as required and
15 accepting her responsibilities. She was deposed and produced documents in discovery diligently. Class
16 Counsel thoroughly advised the Class Representative of her obligations.

17 Executed in San Francisco, California, on Monday, October 18, 2021.

18
19
20 Respectfully Submitted,

21 Dated: October 18, 2021

By: /s/ Michael McShane

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